

Remarks

Claim 1 is canceled.

Claims 2-5 are amended.

New claim 11 is added.

Claims 2-5 and 11 are now present.

Claim 11 is now the independent claim, now focused on compounds of formula VIII or VIIIA.

Claims 2-5 are amended to depend on claim 11 and to delete unnecessary matter.

The present amendments are done so without prejudice; a continuation application is filed on or about this same date aimed at re-capturing the presently deleted subject matter.

Claims 1-5 are rejected under 35 USC 102(e) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over WO 99/05108 and the U.S. equivalent, U.S. Pat. No. 6,254,724.

Claims 1-5 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-41 of U.S. Pat. No. 6,254,724.

The Examiner states that the rejections will be dropped if the claims are limited to the elected specie.

The present claims are amended to be limited to the elected specie of formula VIII, and also still include compounds of formula VIIIA.

The Examiner is kindly requested to also consider compounds of formula VIIIA, which are salts of compounds of formula VIII when E is hydroxyl.

There is no possible overlap of the compounds of the present claims with those of WO '108 and U.S. '724.

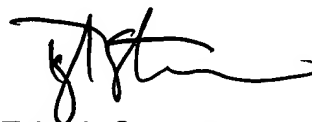
Further, there are no other patent applications assigned to Ciba Specialty Chemicals that disclose the claimed compounds.

The Examiner is kindly requested to reconsider and to withdraw the present claim rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

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Respectfully submitted,



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